

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EXECUTIVE APPAREL, INC.,  
7912 Dungan Road  
Philadelphia, PA 19111,

Plaintiff,

v.

EXECUTIVE APPAREL GROUP, INC.,  
318 Main Street, Suite 100  
Millburn, NJ 07041,

Defendant.

Civil Action No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**COMPLAINT**

Plaintiff, Executive Apparel, Inc. brings this complaint for trademark infringement and unfair competition.

**THE PARTIES**

1. Plaintiff Executive Apparel, Inc. (“EA”) is a Pennsylvania corporation with a place of business at 7912 Dungan Road, Philadelphia, Pennsylvania 19111. EA provides high quality apparel and related services.

2. On information and belief, Executive Apparel Group, Inc. is a New Jersey corporation with a place of business at 318 Main Street, Suite 100, Millburn, New Jersey 07041 (“Defendant”).

**JURISDICTION AND VENUE**

3. This Court has jurisdiction over EA’s claims pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1332, and 1338. Venue is proper in this district pursuant to 28 U.S.C. §

1391(b)(2) and c(2), because the harm is occurring in this district and because, on information and belief, the defendant provides products and services that are the subject of this litigation in this district.

### **EA'S TRADEMARKS**

4. Since at least 1989, EA has used the distinctive trademark EXECUTIVE APPAREL in connection with the marketing and sale of apparel and related services.

5. EA is the owner of U.S. Registration No. 1,541,619 for the mark *EA EXECUTIVE APPAREL* for “clothing, namely, men’s and women’s uniform blazers, uniform vests, uniform ties, uniform sweaters, uniform raincoats, uniform coats, uniform jackets, uniform belts, uniform hats and uniform tuxedos and women’s uniform blouses, uniform shirts and uniform scarves.” This registration issued on May 30, 1989, and remains in full force and effect. A copy of EA’s registration is attached hereto as Exhibit A.



6. EA is the owner of U.S. Registration No. 2,451,016 for the mark EXECUTIVE APPAREL for “clothing, namely, men’s and women’s uniform blazers, uniform vests, uniform pants, uniform shirts, uniform ties, uniform sweaters, uniform raincoats, uniform coats, uniform jackets, uniform belts, uniform hats and uniform tuxedos and women’s uniform blouses, uniform shirts and uniform scarves.” This registration issued on May 15, 2001, and remains in full force and effect. A copy of EA’s registration is attached hereto as Exhibit B.

7. EA’s registrations have attained incontestable status. Pursuant to 15 U.S.C. § 1115(b), EA’s federal registrations for EXECUTIVE APPAREL constitute *conclusive* evidence of the validity of the EXECUTIVE APPAREL marks, as well as EA’s ownership and exclusive right to use the EXECUTIVE APPAREL marks for the services listed in the registrations.

8. EA has expended significant resources promoting and marketing its services under the EXECUTIVE APPAREL marks. As a result of EA's extensive use of the EXECUTIVE APPAREL marks for EA's merchandise and services, the EXECUTIVE APPAREL marks have come to be widely known marks that distinguish and identify EA's products and services.

## COUNT I

### **FEDERAL TRADEMARK INFRINGEMENT**

9. EA repeats and incorporates herein the averments of the preceding paragraphs of this Complaint as though the same were fully set forth herein.

10. This Count of the Complaint is for infringement of a registered trademark and arises under Section 32 of the Lanham Act, 15 U.S.C. § 1114.

11. Long after EA's adoption and use of its EXECUTIVE APPAREL marks, Defendant began to market and sell apparel for the uniform industry under the same name.

12. On July 10, 2014, EA wrote to Defendant to ask that it immediately cease infringing EA's EXECUTIVE APPAREL trademarks, with a second letter sent on October 15, 2014. See Exhibit C. The Defendant has not responded.

13. On January 27, 2010, Defendant purchased the domain name [www.ExecutiveApparelgroup.com](http://www.ExecutiveApparelgroup.com). See WHOIS report, attached as Exhibit D.

14. Defendant's website displays the words "Executive Apparel" across the top of its landing page. See Exhibit E.

15. The use by the Defendant of the EXECUTIVE APPAREL marks in connection with marketing and selling apparel and related services is likely to cause mistake or deception of the public as to the source of the products and services, or as to an affiliation between the parties.

The public is likely to confuse Defendant's products and services offered under the name EXECUTIVE APPAREL with EA's products and services provided under EA's federally registered EXECUTIVE APPAREL trademarks, believing they are part of EA, thereby resulting in damage and injury to EA and its business.

16. EA has never authorized Defendant to use the EXECUTIVE APPAREL marks, nor has EA had any control over the quality of the services provided or offered by Defendant under the EXECUTIVE APPAREL name. Because of the confusion as to source encouraged by Defendant, EA's valuable goodwill in its EXECUTIVE APPAREL marks is at Defendant's mercy.

17. The trade reputation and goodwill of EA's business under its EXECUTIVE APPAREL marks are of enormous value to EA. EA has suffered and continues to suffer damage by Defendant's infringement of EA's EXECUTIVE APPAREL marks.

18. Defendant's willful and wrongful conduct has proximately caused and will continue to cause EA substantial injury to its reputation and goodwill and diminution of the value of its business. The harm this wrongful conduct will cause EA is both ongoing and irreparable. The amount of damages sustained by EA has not yet been determined.

## **COUNT II**

### **FEDERAL UNFAIR COMPETITION**

19. EA repeats and incorporates herein, the averments of the preceding paragraphs of this Complaint as though the same were fully set forth herein.

20. This Count arises under the federal law of unfair competition, 15 U.S.C. § 1125(a).

21. Defendant's conduct alleged above constitutes unfair competition in violation of the federal law of unfair competition. Defendant's offering of clothing under the mark and name EXECUTIVE APPAREL without EA's authorization and control is likely to cause confusion, mistake and deception among the public.

22. Defendant's willful and wrongful conduct has proximately caused and will continue to cause EA substantial injury to its reputation and goodwill and diminution of the value of its business. The harm this wrongful conduct will cause EA is both imminent and irreparable. The amount of damage sustained by EA has not yet been determined.

### **DAMAGES AND RELIEF**

WHEREFORE, EA prays for relief as follows:

A. That this Court hold that Defendant has infringed EA's EXECUTIVE APPAREL marks;

B. That this Court hold that there is a substantial likelihood that Defendant will continue such unlawful activities unless immediately and permanently enjoined from doing so;

C. That this Court grant a preliminary and permanent injunction enjoining Defendant, its agents, servants, employees, attorneys, and those persons in active concert or participation with them, or any of them, from infringement of EA's EXECUTIVE APPAREL marks, and from engaging in unfair trade practices, including enjoining all use of EXECUTIVE APPAREL or any other colorable imitation of EA's EXECUTIVE APPAREL marks, as a mark, name, keyword, metatags, or domain name; or as a component of a mark, name, keyword, metatags, or domain name, or in any other manner likely to cause confusion with EA's EXECUTIVE APPAREL marks;

D. That this Court order Defendant to surrender immediately for destruction all trademark infringing signage and all materials, catalogs, promotional materials and the like that depict the infringing marks, and other materials constituting infringement of EA's rights, in Defendant's possession, custody or control pursuant to 15 U.S.C. § 1118;

E. That this Court order Defendant to transfer the domain name www.ExecutiveApparelgroup.com to EA;

F. That this Court order Defendant to account to EA for Defendant's profits, and to award such profits and the actual damages suffered by EA as a result of Defendant's acts, together with interest and costs pursuant to 15 U.S.C. § 1117(a);

G. That all damages sustained by EA be trebled and that Defendant be compelled to pay damages pursuant to 15 U.S.C. § 1117(a);

H. That Defendant be compelled to pay EA's attorney's fees, together with the costs of this suit pursuant to 15 U.S.C. § 1117(a); and

I. That EA has such other and further relief as to this Court deems just and proper.

#### **JURY TRIAL DEMAND**

Plaintiff respectfully demands a trial by jury on all claims and issues so triable.

DATED: October 28, 2014



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Attorneys for Plaintiff  
EXECUTIVE APPAREL, INC.

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FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EXECUTIVE APPAREL, INC.,  
7912 Dungan Road  
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Plaintiff,

v.

EXECUTIVE APPAREL GROUP, INC.,  
318 Main Street, Suite 100  
Millburn, NJ 07041,

Defendant.

Civil Action No. \_\_\_\_\_

**JURY TRIAL DEMANDED**

**CERTIFICATE OF SERVICE**

I hereby certify that on October 28, 2014 the foregoing document was served via Certified Mail Return Receipt, restricted delivery requested upon the following:

John Silva  
EXECUTIVE APPAREL GROUP, INC.,  
318 Main Street, Suite 100  
Millburn, NJ 07041,

Dated: October 28, 2014

By:



Frederick A. Tecce



## EXHIBIT A

Int. Cl.: 25

Prior U.S. Cl.: 39

**United States Patent and Trademark Office** **Reg. No. 1,541,619**  
Registered May 30, 1989

**TRADEMARK  
PRINCIPAL REGISTER**



EXECUTIVE APPAREL, INC. (PENNSYLVANIA CORPORATION)  
A AND LIPPINCOTT STREETS  
PHILADELPHIA, PA 19134

FOR: CLOTHING, NAMELY, MEN'S AND WOMEN'S UNIFORM BLAZERS, UNIFORM VESTS, UNIFORM PANTS, UNIFORM SHIRTS, UNIFORM TIES, UNIFORM SWEATERS, UNIFORM RAINCOATS, UNIFORM COATS, UNIFORM JACKETS, UNIFORM BELTS, UNIFORM HATS AND UNIFORM TUXEDOS AND WOMEN'S UNIFORM BLOUSES, UNIFORM

SKIRTS AND UNIFORM SCARVES, IN CLASS 25 (U.S. CL. 39).

FIRST USE 7-1-1986; IN COMMERCE 7-1-1986.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "APPAREL", APART FROM THE MARK AS SHOWN.

SEC. 2(F).

SER. NO. 640,815, FILED 1-21-1987.

ROBERT C. CLARK JR., EXAMINING ATTORNEY

## EXHIBIT B

**Int. Cl.: 25**

**Prior U.S. Cls.: 22 and 39**

**United States Patent and Trademark Office**

**Reg. No. 2,451,016**

**Registered May 15, 2001**

**TRADEMARK  
PRINCIPAL REGISTER**

**EXECUTIVE APPAREL**

EXECUTIVE APPAREL, INC. (PENNSYLVANIA  
CORPORATION)  
13430 DAMAR DRIVE  
PHILADELPHIA, PA 19116

FOR: CLOTHING, NAMELY, MEN'S AND WOMEN'S UNIFORM BLAZERS, UNIFORM VESTS, UNIFORM PANTS, UNIFORM SHIRTS, UNIFORM TIES, UNIFORM SWEATERS, UNIFORM RAINCOATS, UNIFORM COATS, UNIFORM JACKETS, UNIFORM BELTS, UNIFORM HATS AND UNIFORM TUXEDOS AND WOMEN'S UNIFORM BLOUSES, UNIFORM SKIRTS AND UNIFORM SCARVES, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 7-1-1986; IN COMMERCE 7-1-1986.

OWNER OF U.S. REG. NO. 1,541,619.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "APPAREL", APART FROM THE MARK AS SHOWN.

SEC. 2(F).

SER. NO. 76-051,700, FILED 5-12-2000.

DOUGLAS LEE, EXAMINING ATTORNEY

## EXHIBIT C

*Jordan Mazur, Esq.*  
**ATTORNEY AT LAW**

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PH. 917.608.3766 | FX. 917.454.1187  
51 CRAG LANE | LEVITTOWN, NEW YORK 11756  
JORDANMAZURESQ@GMAIL.COM

July 10, 2014

Executive Apparel Group, Inc.  
318 Main Street, Suite 100  
Millburn, NJ 07041-1181

Attn: John Silva

**Re: Infringement of Executive Apparel, Inc. Trademark Rights**

Dear Mr. Silva:

I represent Executive Apparel, Inc., the owner of U.S. Federal Trademark Registration Nos. 1541619, 2451016 and 4447881, as well as the owner and licensee of other pending trademark applications relating to the trademark "Executive Apparel". Copies of the federal trademark registration data are attached for your reference. The trademark "Executive Apparel" has been in continuous use as the company's brand name since July 1, 1986 and has been used in advertising campaigns, on the internet via the company's website, [executiveapparel.com](http://executiveapparel.com), and throughout the tri-state area and around the United States in conjunction with the sale of various types of clothing, namely, men's and women's uniform blazers, vests, pants, shirts, ties, sweaters, raincoats, coats, jackets, belts, hats, tuxedos, blouses, skirts and scarves. As a result of these efforts, the customers of Executive Apparel, Inc., as well as the general public, have come to recognize "Executive Apparel" as an established and successful clothing and apparel sales business.

We have discovered that your company, Executive Apparel Group Inc., has been trading on our goodwill by using a mark – specifically, the name Executive Apparel Group Inc. – that is confusingly similar to our trademark. The use of this mark in commerce in connection with the sale, marketing and/or advertising of goods or services has been ongoing without the consent of the rightful owner of the trademark "Executive Apparel". Your website at <http://www.executiveapparelgroup.com/home.html> prominently features a variety of goods similar to our own goods and services via the use of various photographs along with the phrase, "provider of fine clothing". Furthermore, the website prominently features the name Executive Apparel Group Inc. next to the symbol "©," universally known as the symbol for copyrighted material. As a copyright protects works of authorship such as writings, music and works of art that have been tangibly expressed, the inclusion of this symbol with your company's name is not only improper, but also misleading in that it indicates to consumers that your company is properly registered with the United States Patent and Trademark Office or U.S. Copyright Office, resulting in potential confusion with Executive Apparel, Inc. which is, in fact, the owner of a

U.S. Federal Trademark. Since it is possible that you were unaware of this conflict, we believe that it is in our mutual interest to bring this matter to your attention.

It is important that we exercise our right to protect our trademark. It serves as an important and distinctive representation of the origin of our products as well as the goodwill of our company. Accordingly, this letter constitutes a demand by Executive Apparel, Inc. that you cease and desist any and all use of the "Executive Apparel" trademark in association with the sale, marketing, distribution, promotion or other identification of your products or services.

State and federal law supports our position that confusingly similar trademarks may cause confusion among customers. This confusion may cause substantial harm to the trademark by facilitating the loss of its effectiveness in establishing a distinct association between it, our products and services, and our company's goodwill. It is our contention that your use of the name Executive Apparel Group Inc. results in confusion among customers seeking our goods and services – in particular, here in the tri-state area and nationwide on the internet. This activity is actionable under federal law and causes you to be liable to us in every state in which you have made sales. Your activities are unlawful and may constitute unfair competition, intentional trademark infringement, trademark dilution and false designation of origin.

The Lanham Act (the U.S. Trademark Act) provides numerous remedies for trademark infringement and dilution including, but not limited to, preliminary and permanent injunctive relief, money damages, a defendant's profits, provisions for the destruction or confiscation of infringing products and promotional materials and, where intentional infringement is shown, attorney's fees and treble money damages.

This letter is sent without prejudice to the rights and claims of Executive Apparel, Inc., all of which are expressly reserved. In addition to this certified mail, return receipt requested version of this letter, I am also sending you a copy of this letter by regular first class mail in case you refuse to accept the certified mail version of this letter.

We would prefer to resolve this matter without taking legal action; however, we are prepared to file a lawsuit if necessary to protect our rights and business. You may avoid legal action by having an authorized representative of your company respond to this letter within fourteen (14) calendar days of receipt of this letter indicating your intention to cease and desist the use of the "Executive Apparel" trademark. Attached herein, you will find a Cease and Desist Agreement. I recommend that you consult with an attorney prior to taking any action.

We hope that this issue may be resolved this way so that we can avoid any further legal remedies as provided by state law and under federal law pursuant to the Lanham Act.

Very Truly Yours,

Jordan Mazur, Esq.

Cease and Desist Agreement

I, \_\_\_\_\_, personally and on behalf of Executive Apparel Group Inc., agree to immediately cease and desist from any and all further use of "Executive Apparel". In the event that this agreement is breached by me or by Executive Apparel Group Inc., Executive Apparel, Inc. shall be entitled to all costs, attorney's fees, and collection costs related to any claims and/or action brought to enforce this agreement and Executive Apparel, Inc. shall be free to pursue all rights it had as of the date of this letter as if this letter had never been signed. I certify that I have the authority to enter into this agreement on behalf of Executive Apparel Group Inc.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Both individually and on behalf of Executive Apparel Group Inc.



*Jordan Mazur, Esq.*

ATTORNEY AT LAW

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PH. 917.608.3766 | Fx. 917.454.1187

51 CRAG LANE | LEVITTOWN, NEW YORK 11756

JORDANMAZURESQ@GMAIL.COM

October 15, 2014

Executive Apparel Group, Inc.  
318 Main Street, Suite 100  
Millburn, NJ 07041-1181

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Dear Mr. Silva:

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It is important that we exercise our right to protect our trademark. It serves as an important and distinctive representation of the origin of our products as well as the goodwill of our company. Accordingly, this letter constitutes a demand by Executive Apparel, Inc. that you cease and desist any and all use of the "Executive Apparel" trademark in association with the sale, marketing, distribution, promotion or other identification of your products or services.

State and federal law supports our position that confusingly similar trademarks may cause confusion among customers. This confusion may cause substantial harm to the trademark by facilitating the loss of its effectiveness in establishing a distinct association between it, our products and services, and our company's goodwill. It is our contention that your use of the name Executive Apparel Group Inc. results in confusion among customers seeking our goods and services – in particular, here in the tri-state area and nationwide on the internet. This activity is actionable under federal law and causes you to be liable to us in every state in which you have made sales. Your activities are unlawful and may constitute unfair competition, intentional trademark infringement, trademark dilution and false designation of origin.

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We hope that this issue may be resolved this way so that we can avoid any further legal remedies as provided by state law and under federal law pursuant to the Lanham Act.

Very Truly Yours,

Jordan Mazur, Esq.

Cease and Desist Agreement

I, \_\_\_\_\_, personally and on behalf of Executive Apparel Group Inc., agree to immediately cease and desist from any and all further use of "Executive Apparel". In the event that this agreement is breached by me or by Executive Apparel Group Inc., Executive Apparel, Inc. shall be entitled to all costs, attorney's fees, and collection costs related to any claims and/or action brought to enforce this agreement and Executive Apparel, Inc. shall be free to pursue all rights it had as of the date of this letter as if this letter had never been signed. I certify that I have the authority to enter into this agreement on behalf of Executive Apparel Group Inc.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Both individually and on behalf of Executive Apparel Group Inc.

## EXHIBIT D

Domain Name Lookup: executiveapparelgroup.com

Page 1 of 1

Whois Server Version 2.0

Domain names in the .com and .net domains can now be registered with many different competing registrars. Go to <http://www.internic.net> for detailed information.

Domain Name: EXECUTIVEAPPARELGROUP.COM  
Registrar: FASTDOMAIN, INC.  
Whois Server: whois.fastdomain.com [MORE INFO...](#)  
Referral URL: <http://www.fastdomain.com>  
Name Server: NS1.BLUEHOST.COM  
Name Server: NS2.BLUEHOST.COM  
Status: clientTransferProhibited  
Updated Date: 28-jan-2014  
Creation Date: 27-jan-2010  
Expiration Date: 27-jan-2015

&gt;&gt;&gt; Last update of whois database: Fri, 17 Oct 2014 15:17:55 GMT &lt;&lt;&lt;

NOTICE: The expiration date displayed in this record is the date the registrar's sponsorship of the domain name registration in the registry is currently set to expire. This date does not necessarily reflect the expiration date of the domain name registrant's agreement with the sponsoring registrar. Users may consult the sponsoring registrar's Whois database to view the registrar's reported date of expiration for this registration.

TERMS OF USE: You are not authorized to access or query our Whois database through the use of electronic processes that are high-volume and automated except as reasonably necessary to register domain names or modify existing registrations; the Data in VeriSign Global Registry Services' ("VeriSign") Whois database is provided by VeriSign for information purposes only, and to assist persons in obtaining information about or related to a domain name registration record. VeriSign does not guarantee its accuracy. By submitting a Whois query, you agree to abide by the following terms of use: You agree that you may use this Data only for lawful purposes and that under no circumstances will you use this Data to: (1) allow, enable, or otherwise support the transmission of mass unsolicited, commercial advertising or solicitations via e-mail, telephone, or facsimile; or (2) enable high volume, automated, electronic processes that apply to VeriSign (or its computer systems). The compilation, repackaging, dissemination or other use of this Data is expressly prohibited without the prior written consent of VeriSign. You agree not to use electronic processes that are automated and high-volume to access or query the Whois database except as reasonably necessary to register domain names or modify existing registrations. VeriSign reserves the right to restrict your access to the Whois database in its sole discretion to ensure operational stability. VeriSign may restrict or terminate your access to the Whois database for failure to abide by these terms of use. VeriSign reserves the right to modify these terms at any time.

The Registry database contains ONLY .COM, .NET, .EDU domains and Registrars.

## EXHIBIT E



Who we are

Who we are | What we do | Our Superior Value | Make an Appointment | Careers | Blog

WELLS FARGO

Wells Fargo

Wilentz, Goldman and Spitzer, P.A.

Wolff and Samson, PC



**Executive Apparel Group** provides fine clothing and wardrobe consulting to business owners and executives. Our clients are successful individuals who appreciate quality clothing, outstanding service, and saving time and money.

**Our Vision** is to be the premier provider of fine clothing and wardrobe consulting in the tri-state area and to grow nationwide by providing outstanding leadership and opportunity to our employees and unparalleled service to our clients and referrals.

Next →

Giving is Good for the Heart – and the Bottom-line.  
Your 'A' List is your Gift List.  
Click [here](#) to buy an Executive Apparel Gift Card



Suited for Success



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Call us at 973-258-0903